

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SUHIN S.,

Plaintiff,

V.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

CASE NO. C19-827 BAT

**ORDER AFFIRMING THE
COMMISSIONER'S DECISION AND
DISMISSING THE CASE WITH
PREJUDICE**

Plaintiff appeals the denial of his application for Supplemental Security Income, contending that the ALJ erred by misevaluating (1) his symptom testimony and (2) the opinions of his treating psychiatrist and examining psychologists. Dkt. 10. The Court **AFFIRMS** the Commissioner's final decision and **DISMISSES** the case with prejudice.

BACKGROUND

Plaintiff is a 47-year old man whose primary language is Mien, immigrated from Laos in 1988, and has worked past jobs as a furniture assembler and a material handler. Tr. 41, 59–60, 557, 585. Although he alleges disability beginning in January 2010, he was previously denied benefits in September 2014, a decision that was not appealed. Tr. 30. Plaintiff filed his current SSI application on February 25, 2015, which was used as the relevant date for consideration. Tr. 31.

The ALJ determined that plaintiff has the severe impairments of **bony callus in the right shoulder, major depressive disorder, post-traumatic stress disorder (“PTSD”), and alcohol abuse disorder**. Tr. 33. The ALJ determined that plaintiff has the **residual functional capacity (“RFC”)** to perform light work with additional restrictions, including no loud, sudden banging noises and a limitation to simple, routine tasks with simple, short instructions. Tr. 35–36. Although the ALJ found that plaintiff could not return to his past work, he determined that plaintiff could perform other work that exists in significant numbers in the national economy. Tr. 41–43. The ALJ therefore concluded that plaintiff was not disabled. Tr. 43.

DISCUSSION

The Court will reverse the ALJ's decision only if it was not supported by substantial evidence in the record as a whole or if the ALJ applied the wrong legal standard. *Molina v. Astrue*, 674 F.3d 1104, 1110 (9th Cir. 2012). The ALJ's decision may not be reversed on account of an error that is harmless. *Id.* at 1111. Where the evidence is susceptible to more than one rational interpretation, the Court must uphold the Commissioner's interpretation. *Thomas v. Barnhart*, 278 F.3d 947, 954 (9th Cir. 2002).

On appeal, plaintiff challenges the ALJ's evaluation of his testimony and the medical opinions only with respect to the impact of PTSD and depression. Plaintiff has not, however, demonstrated that the ALJ's decision was unsupported by substantial evidence, the result of harmful legal error, or unreasonable.

1. Plaintiff's Testimony

Plaintiff contends that the ALJ failed to provide specific, clear and convincing reasons to discount his testimony about the severity of his mental limitations. *See Molina v. Astrue*, 674 F.3d 1104, 1112 (9th Cir. 2012). The Court disagrees.

1 The ALJ discounted plaintiff's testimony about the severity of his limitations stemming
2 from depression and PTSD because his statements about debilitating mental limitations were
3 inconsistent with the medical record. Tr. 38; *see* 20 C.F.R. § 416.929(c)(2)–(c)(4) (evaluating the
4 intensity and persistence of symptoms by viewing statements, medical evidence, and other
5 evidence). First, the ALJ noted that although his primary allegation referred to psychological
6 impairment, clinical findings generally indicated that he was fully oriented with intact memory
7 and good attention/concentration and insight/judgment. *Id.*; *see* Tr. 346, 389, 441, 538, 547, 569–
8 70, 762, 773, 786. Second, the ALJ noted that when plaintiff engaged in mental-health treatment,
9 this appeared to be successful in reducing his symptoms. Tr. 38. Plaintiff began trauma therapy
10 with a social worker in October 2014 and initially showed low engagement. Tr. 425, 447.
11 Nonetheless, in January 2015, plaintiff reported improvement in symptoms due to counseling
12 and medication. Tr. 382. On March 9, 2015, plaintiff reported “that PTSD,[] Depression, and
13 GAD symptoms, and Sleep concerns have all resolved[] and he has met his counseling[] goals.”
14 Tr. 351. However, on March 10, 2015, plaintiff told another clinician that while his PTSD
15 symptoms had improved, he wanted to see another therapist. Tr. 346. Although plaintiff then saw
16 Arthur Leonard Lewy, Ph.D., several times, it did not appear that he returned after a July 2015
17 appointment. Tr. 687, 715. Third, the ALJ noted that plaintiff’s non-compliance with therapy and
18 medication, both of which were shown to be effective, possibly stemmed from reasons not
19 connected to depression and PTSD. Tr. 38–39. For example, plaintiff continued to present
20 regularly to other providers, including his psychiatrist, while not showing up for therapy
21 appointments with Dr. Lewy. Tr. 38; *see, e.g.*, Tr. 636, 687, 702. The ALJ questioned whether
22 this reluctance to see Dr. Lewy might be connected to Dr. Lewy’s choice to monitor plaintiff’s
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1 alcohol use and to discuss how not working was related to plaintiff's low mood.¹ Tr. 38–39; see
2 Tr. 715. Similarly, while plaintiff stated that he was non-compliant with taking his anti-
3 depressants due to sedative effects, he did not inform a provider of this side effect until 2017, at
4 which time his medications were shifted, resulting in greater effectiveness. Tr. 38, *see* Tr. 772,
5 776, 781.

6 The Court finds that the inconsistency between plaintiff's testimony and the medical
7 evidence constitutes a specific, clear and convincing reason for discounting the severity of
8 plaintiff's allegations of debilitating depression and PTSD. Plaintiff contends that the ALJ
9 should have concluded that normal mental status exams were consistent with debilitating mental
10 limitations, should have focused on plaintiff's continued limitations rather than on improvement
11 with medication, and should have considered his reasons for not taking his medications
12 consistently. Plaintiff's arguments for a contrary interpretation of the medical evidence do not
13 undermine the ALJ's reasonable inferences. *See Shaiabi v. Berryhill*, 883 F.3d 1102, 1108 (9th
14 Cir. 2018). Plaintiff has not indicated how the evidence demonstrates that plaintiff's resistance to
15 treatment was attributable to his mental impairments, rather than his personal preferences, such
16 that the ALJ could reasonably infer that his reluctance to attend therapy and to take effective
17 medications indicated that his mental limitations were less severe than he alleged. *See Molina*,
18 674 F.3d at 1114. This is not a case in which plaintiff's testimony was rejected merely because
19 his mental limitations waxed and waned during treatment and the ALJ picked out a few isolated
20 instances of improvement over a period of months or years to treat them as a basis for
21 concluding plaintiff was capable of working. *See, e.g., Garrison v. Colvin*, 759 F.3d 995, 1017

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23 ¹ In July 2015, Dr. Lewy set forth a therapeutic plan: "Pt asked to think[] further about steps he
might be willing to take regarding his work[] situation. Will continue to monitor etoh use." Tr.
715.

1 (9th Cir. 2014). Rather, the ALJ noted, for example, the effectiveness of sleep medications that
2 were taken sporadically even when there were no negative interactions with other drugs, Tr. 38,
3 441, 461, 507, 791–92; and it took years for plaintiff to report side effects from an antidepressant
4 even though, once his medications were corrected, his symptoms of PTSD were “well-
5 controlled,” Tr. 38, 776; *see, e.g.*, Tr. 772, 781, 788. Moreover, plaintiff’s testimony about the
6 severity of his mental limitations should be viewed in the context of the ALJ’s unchallenged
7 rejection of his testimony about the severity of his physical limitations because, among other
8 things, although he claimed he could not lift 20 pounds, during a physical exam he had full
9 strength in his arms and normal shoulder range of motion, *compare* Tr. 71 with Tr. 562, and
10 though he claimed that long-term, significant shoulder pain kept him from working, the record
11 showed that he hunted, fished, gardened, collected mushrooms, and performed chores, Tr. 350,
12 455, 457, 514, 557–58, 579, 584, 586, 721, 761, 785. *See Orn v. Astrue*, 495 F.3d 625, 636 (9th
13 Cir. 2007) (holding that factors that an ALJ may consider in weighing a claimant’s credibility
14 include reputation for truthfulness, inconsistencies in testimony or between testimony and
15 conduct, daily activities, and unexplained or inadequately explained failure to seek treatment or
16 follow a prescribed course of treatment).

17 The ALJ did not harmfully err as a matter of fact or law in discounting the severity of
18 plaintiff’s testimony about his mental limitations.

19 **2. Medical Opinions**

20 Plaintiff contends that the ALJ failed to give specific and legitimate reasons for
21 discounting the opinions of (a) treating psychiatrist Lorin Boynton, M.D.; (b) examining
22 psychologist Marsha Hedrick, Ph.D.; (c) examining psychologist Geordie Knapp, Psy.D.; and
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1 (d) examining psychologist David Widlan, Ph.D. *See Bayliss v. Barnhart*, 427 F.3d 1211, 1216
2 (9th Cir. 2005). The Court disagrees.

3 **a. Treating Psychiatrist Dr. Boynton**

4 In an October 2017 letter, treating psychiatrist Dr. Boynton opined that plaintiff did not
5 have the capacity to learn new tasks or to adapt to changes in a work setting, and that he would
6 not be able to complete a normal workday without psychological decompensation. Tr. 797–98.
7 First, the ALJ discounted Dr. Boynton’s opinion because it was based on generalizations and
8 presumptions about plaintiff’s condition. Tr. 40. Although Dr. Boynton acknowledged that her
9 medical notes referred to plaintiff’s attention and concentration as “good” and to his memory as
10 “intact,” Dr. Boynton downplayed the accuracy of her own clinical observations by pointing out
11 that she made the statements in the context of plaintiff’s attention and concentration during the
12 appointment and his ability to report symptoms and activities since their last meeting. Tr. 797.
13 Dr. Boynton reported that, as the treating psychiatrist, she did not conduct in-depth cognitive
14 assessments because such assessments are generally handled by psychologists. *Id.* Thus, as the
15 ALJ observed, Dr. Boynton based her functional assessment on generalities: patients with severe
16 PTSD and depression “usually have significant cognitive issues when tested formally” and that
17 these cognitive difficulties, together with the fragile emotional state that such patients have,
18 make it very difficult for such patients to function in a work setting. Tr. 797; *see* Tr. 40.

19 Second, the ALJ discounted Dr. Boynton’s opinion because it was unclear on what
20 medical evidence Dr. Boynton based her conclusions. Tr. 40. Although Dr. Boynton opined that
21 plaintiff could not learn new tasks or complete a workday without decompensation, Dr. Boynton
22 had not herself observed any symptoms of decompensation because she began treating plaintiff
23 three years after he had ceased all work activity, including volunteer activities. *Id.* The ALJ

1 observed that Dr. Boynton admitted that her own clinical notes gave no indication about this
2 level of impairment, noted that she had not administered in-depth testing, and provided no basis
3 for concluding that plaintiff would decompensate in a work environment. *Id.* In fact, plaintiff
4 testified that he was let go from his last job for missing work due to leaving on a hunting trip and
5 lack of transportation, neither of which involved any of his impairments. Tr. 40; *see* Tr. 60–61,
6 440. Moreover, plaintiff’s mental and physical impairments were longstanding—i.e., based on a
7 childhood physical injury and an ongoing history of depression and PTSD—and the record
8 contained no evidence that his conditions had worsened around or after the alleged disability
9 onset date. Tr. 40; *see* Tr. 560, 785.

10 The Court finds that the ALJ cited at least two specific and legitimate reasons for
11 discounting the opinion of treating psychiatrist Dr. Boynton. *See* 20 C.F.R. § 416.927(c)(3)
12 (providing that an ALJ will consider the supportability of all medical opinions); *see, e.g.,*
13 *Bayliss*, 427 F.3d at 1216 (discounting a medical opinion because impairments were
14 longstanding and did not prevent the claimant from performing numerous activities).

15 **b. Examining Psychologist Dr. Hedrick**

16 In a June 2015 mental evaluation, examining psychologist Dr. Hedrick provided the
17 following functional assessment:

18 Ability to reason is adequate. Understanding and memory is
19 somewhat impaired, particularly with regard to working memory.
20 Sustained concentration and persistence, there may be some
impairment, but this was difficult to assess. Social interaction is
good. Adaptation is limited.

21 Tr. 558–59. The ALJ gave Dr. Hedrick’s functional assessment limited weight because it was
22 vague and because Dr. Hedrick remarked repeatedly about evaluation limitations due to
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1 language/cultural barriers and the absence of an interpreter. Tr. 35, 39; *see* Tr. 556–59. These
2 reasons were specific and legitimate.

3 First, it was reasonable for the ALJ to discount Dr. Hedrick’s opinion as vague. *See, e.g.,*
4 *Meanel v. Apfel*, 172 F.3d 1111, 1114 (9th Cir. 1999) (noting that a medical opinion may be
5 rejected as vague, conclusory, or unsubstantiated). Dr. Hedrick neither quantified nor explained
6 the degree of limitation when referring to plaintiff’s understanding being “somewhat impaired,”
7 to “some degree” of impairment in understanding and memory, and to “limited” adaptation. Tr.
8 558–59. Second, it was reasonable for the ALJ to discount Dr. Hedrick’s opinion for the same
9 reason Dr. Hedrick herself did: difficulties in communication and evaluation due to language and
10 cultural barriers. *See, e.g.*, Tr. 556–57 (“He was unable to identify anything that increased the
11 problem. This may have been having to do with some difficulties with language and also with
12 not understanding the concept, culturally.”) *and* (noting that stream of mental activity “is
13 difficult to assess due to language issues”), Tr. 558 (“It was not possible to assess abstract
14 thinking because of cultural and language issues.”); *see also* Tr. 559 (noting in functional
15 assessment that there may be some impairment to sustained concentration and persistence “but
16 this was difficult to assess”).

17 The Court finds that the ALJ cited at least two specific and legitimate reasons for
18 discounting the opinion of examining psychologist Dr. Hedrick.

19 **c. Examining Psychologist Dr. Knapp**

20 In a March 2014 evaluation, examining psychologist Dr. Knapp checked off boxes
21 indicating that plaintiff was severely limited with respect to communicating effectively in a work
22 setting and completing a normal workday and work week, and was markedly limited with respect
23 to adapting to changes, making simple work-related decisions, and asking simple questions or

1 requesting assistance. Tr. 335. The ALJ discounted Dr. Knapp's opinion because, among other
2 reasons, Dr. Knapp provided no explanation for these limitations, the examination was a one-
3 time snapshot that generated no clinical notes, and the mental evaluation did not explain the
4 severity of the mental limitations assessed. All three reasons were specific and legitimate.

5 First, Dr. Knapp nowhere explained the basis for marking severe or marked limitations.
6 *See Molina*, 674 F.3d at 1111 (noting that checkbox reports that do not contain an explanation of
7 their conclusions may be discounted). Second, because he was reviewing eligibility for state
8 benefits Dr. Knapp did not record clinical notes. *See* 20 C.F.R. § 416.927(c) (noting that when
9 weighing medical opinions, an ALJ may consider nature and extent of the doctor's relationship
10 to the claimant, the extent of familiarity with other information in the record, and the
11 supportability of the opinion). Third, the mental status evaluation administered by Dr. Knapp
12 returned normal results, except as to concentration where Dr. Knapp noted that "Serial 7/3's
13 were not attempted" and plaintiff "was only able to repeat 5 digits forward and 2 backward
14 which is slightly below average." Tr. 386. Thus, although the ALJ discounted Dr. Knapp's
15 overall conclusions, the ALJ appears to have accepted in the RFC assessment the extent of
16 concentration limitation supported by Dr. Knapp's mental status evaluation. *See* Tr. 36 (RFC
17 assessment limiting plaintiff to simple, routine tasks with simple, short instructions).

18 The Court finds that the ALJ cited specific and legitimate reasons for discounting the
19 opinion of examining psychologist Dr. Knapp.

20 **d. Examining Psychologist Dr. Widlan**

21 In January 2016, examining psychologist Dr. Widlan reviewed Dr. Knapp's opinion and
22 evaluated plaintiff, similarly finding on a checkbox form that plaintiff had marked limitations
23 with respect to understanding, remembering, and persisting in tasks involving detailed

1 instructions, learning new tasks, adapting to changes, communicating and performing effectively
2 in a work setting, and completing a normal workday and work week. Tr. 610–11. The ALJ
3 discounted Dr. Widlan’s opinion for, among other rationales, the same reasons he discounted Dr.
4 Knapp’s opinion: the checkbox limitations were not explicated; the one-time snapshot evaluation
5 did not generate clinical notes; and the mental status evaluation administered by Dr. Widlan did
6 not support the severity of mental limitations assessed. These reasons are specific and legitimate.

7 As with Dr. Knapp’s opinion, Dr. Widlan’s checkbox limitations were not well-
8 explicated and the examination did not result in helpful clinical notes. Moreover, as the ALJ
9 noted, Dr. Widlan found that plaintiff performed in the normal range for most elements of the
10 mental status evaluation, and to the extent plaintiff performed below average on concentration,
11 Dr. Widlan determined that plaintiff was still able to follow a simple three-step command and
12 showed non-impairment on the simple trailmaking task. Tr. 41, 613. Thus, although the ALJ
13 discounted Dr. Widlan’s overall conclusions, the ALJ appears to have accepted in the RFC
14 assessment the extent of concentration limitation supported by Dr. Widlan’s mental status
15 evaluation. *See* Tr. 36 (RFC assessment).

16 The Court finds that the ALJ cited specific and legitimate reasons for discounting the
17 opinion of examining psychologist Dr. Widlan.

18 **CONCLUSION**

19 For the foregoing reasons, the Commissioner’s decision is **AFFIRMED** and this case is
20 **DISMISSED** with prejudice.

21 DATED this 27th day of December, 2019.

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BRIAN A. TSUCHIDA
Chief United States Magistrate Judge